IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.

CWP NO. 915 Of 2005.

Date of decision: April 4, 2007.

Himachal Acqua Culture Farms.
……. Petitioner.

Vs.

State of H.P. & Ors.
……. Respondents.

Coram

The Hon'ble Mr.Justice Deepak Gupta, Judge.

The Hon'ble Mr.Justice Surinder Singh, Judge.

Whether approved for reporting? No

For the petitioner: Mr.R.K. Gautam, Sr. Advocate with Mr.Naveen Bhardwaj, Advocate.

For the respondents: Mr. M.S. Chandel, Advocate General with Mr. R.M. Bisht, Deputy Advocate General for respondents No.1 and 2.

Mr. Shrawan Dogra, Advocate, for respondent No.3.

None for respondent No.4.

Deepak Gupta, J.(Oral).

The writ petitioner has approached this Hon'ble Court claiming the following amongst other relief(s):

> **"(i) That the electricity bills, Annexures P-4, P-6, P-8 & P-16 may be quashed and the respond4ent Board may be directed to revise the bills accordingly by correcting the rates of tariff from commercial to Agricultural Pumping."**

Whether reporters of local Papers may be allowed to see the judgment? Yes.

The main question which has been raised before us is whether the activity of pumping water for filling up the fish ponds will fall within the ambit of words **"irrigation pumping"** as mentioned in Himachal Pradesh State Electricity Board's Schedule for agricultural pumping supply at Annexure P-2. According to Mr. R.K. Gautam, learned senior counsel for the petitioner, the activity of fish farming is akin to agriculture and should be treated as an agricultural activity. He, therefore submits that the tariff to be charged from him should be according to Schedule for agricultural pumping supply.

Unfortunately, the matter does not end here. The agricultural pumping supply schedule is only made applicable to irrigation pumping loads. We are not very clear whether the activity of filling up the fish ponds would fall within the ambit of the term **"irrigation"** as mentioned in the schedule.

On an overall examination of the case, we feel that it is the respondent No.4, i.e. H.P. State Regulatory Commission which can best decide the question raised by the petitioner, since this is the body which fixes the tariff rates for electricity in the State year to year. We therefore, direct that in case the petitioner approaches the respondent No.4 with its grievance and requests within a period of three weeks from

today, the Regulatory Commission shall decide the matter within three months thereafter, after hearing the petitioner as well as the Electricity Board. We want to make it clear that have not expressed any opinion on the merits of the case.

The petition is disposed of with the aforesaid directions.

CMP No.1803 of 2005.

No order in view of the disposal of the main writ petition.

(Deepak Gupta)
Judge.

April 4, 2007.
(Pds)

(Surinder Singh)
Judge.